

HCDistrictclerk.comPUENTE, WILLFREDO vs. GEOVERA SPECIALTY
INSURANCE COMPANY

6/21/2019

Cause: 201935476 CDI: 7 Court: 011

APPEALS

No Appeals found.

COST STATMENTS

No Cost Statments found.

TRANSFERS

No Transfers found.

POST TRIAL WRITS

No Post Trial Writs found.

ABSTRACTS

No Abstracts found.

SETTINGS

No Settings found.

NOTICES

No Notices found.

SUMMARY**CASE DETAILS**

File Date	5/22/2019
Case (Cause) Location	
Case (Cause) Status	Active - Civil
Case (Cause) Type	Debt/Contract - Consumer/DTPA
Next/Last Setting Date	N/A
Jury Fee Paid Date	6/17/2019

CURRENT PRESIDING JUDGE

Court	011 th
Address	201 CAROLINE (Floor: 9) HOUSTON, TX 77002 Phone:7133686020
JudgeName	KRISTEN BRAUCHLE HAWKINS
Court Type	Civil

ACTIVE PARTIES

Name	Type	Post Jdgm	Attorney
PUENTE, WILLFREDO	PLAINTIFF - CIVIL		GERGUIS, MARIA RIZKALLA
GEOVERA SPECIALTY INSURANCE COMPANY	DEFENDANT - CIVIL		THOMPSON, RHONDA JOANN HARDER
GEOVERA SPECIALTY INSURANCE COMPANY	REGISTERED AGENT		

INACTIVE PARTIES

No inactive parties found.

EXHIBIT 2

JUDGMENT/EVENTS

Date	Description	Order Signed	Post Jdgm	Pgs Volume /Page	Filing Attorney	Person Filing
6/17/2019	JURY FEE PAID (TRCP 216)			0		
6/17/2019	ANSWER ORIGINAL PETITION			0	THOMPSON, RHONDA JOANN HARDER	GEOVERA SPECIALTY INSURANCE COMPANY
6/17/2019	JURY FEE PAID (TRCP 216)			0		
5/22/2019	ORIGINAL PETITION			0	GERGUIS, MARIA RIZKALLA	PUENTE, WILLFREDO

SERVICES

Type	Status	Instrument	Person	Requested	Issued	Served	Returned	Received	Tracking	Deliver To
CITATION (INSURANCE COMMISSION)	SERVICE RETURN/EXECUTED	ORIGINAL PETITION	GEOVERA SPECIALTY INSURANCE COMPANY	5/22/2019	5/23/2019	5/30/2019		6/20/2019	73628432	CVC/CTM SVCE BY CERTIFIED MAIL
1455 OLIVER RD FAIRFIELD CA 94534										

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
85757345	Defendant Geovera Specialty Insurance Company's Original Answer		06/17/2019	2
85543815	Certified Mail Receipt		05/28/2019	1
85459038	Certified Mail Tracking Number (7018 1830 0001 4423 7964)		05/23/2019	2
85384431	Plaintiff's Original Petition		05/22/2019	22
-> 85384432	Case Information Sheet		05/22/2019	1
-> 85384433	Civil Process Request		05/22/2019	2
-> 85384434	Filing letter		05/22/2019	1

CAUSE NO. 201935476

RECEIPT NO.

75.00 CTM

TR # 73628432

PLAINTIFF: PUENTE, WILLFREDO

vs.

DEFENDANT: GEOVERA SPECIALTY INSURANCE COMPANY

In The 11th
Judicial District Court
of Harris County, Texas
11TH DISTRICT COURT
Houston, TX

CITATION (INSURANCE COMMISSION)

THE STATE OF TEXAS
County of HarrisTO: GEOVERA SPECIALTY INSURANCE COMPANY
MAY BE SERVED BY SERVING THE TEXAS DEPARTMENT OF INSURANCE
P O BOX 149104 AUSTIN TEXAS 78714
FORWARD TO:
1455 OLIVER RD FAIRFIELD CA 94534Attached is a copy of PLAINTIFF'S ORIGINAL PETITIONThis instrument was filed on the 22nd day of May, 2019, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 23rd day of May, 2019, under my hand and seal of said Court.

Issued at request of:
GERGUIS, MARIA RIZKALLA
2211 NORFOLK ST. SUITE 800
HOUSTON, TX 77098
Tel: (713) 655-1405
Bar No.: 24090355*Marilyn Burgess*MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: HALL, JOSHUA EVERETT GLH//11237412

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock ____ .M., on the _____ day of _____, _____.

Executed at (address) _____ in

_____ County at _____ o'clock ____ .M., on the _____ day of _____,
_____, by delivering to _____ defendant, in person, atrue copy of this Citation together with the accompanying _____ copy(ies) of the
Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, _____.

FEE: \$ _____

_____ of _____ County, Texas

By _____

Affiant

Deputy

CAUSE NO. 201935476

RECEIPT NO.

75.00

CTM

TR # 73628432

PLAINTIFF: PUENTE, WILLFREDO

vs.

DEFENDANT: GEOVERA SPECIALTY INSURANCE COMPANY

In The 11th
Judicial District Court
of Harris County, Texas
11TH DISTRICT COURT
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THE STATE OF TEXAS
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TO: GEOVERA SPECIALTY INSURANCE COMPANY
MAY BE SERVED BY SERVING THE TEXAS DEPARTMENT OF INSURANCE
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Tel: (713) 655-1405
Bar No.: 24090355



Marilyn Burgess

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: HALL, JOSHUA EVERETT GLH//11237412

OFFICER/AUTHORIZED PERSON RETURN

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Executed at (address) _____ in

_____ County at _____ o'clock _____.M., on the _____ day of _____,

_____, by delivering to _____ defendant, in person, a

true copy of this Citation together with the accompanying _____ copy(ies) of the
Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, _____.

FEE: \$ _____

_____ of _____ County, Texas

By _____

Affiant _____

Deputy _____



**STATE OF TEXAS
COUNTY OF HARRIS**

I, Marilyn Burgess, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this

5-23-19

**MARILYN BURGESS, DISTRICT CLERK
HARRIS COUNTY, TEXAS**

Joshua Hall Deputy

5/22/2019 4:24 PM
Marilyn Burgess - District Clerk Harris County
Envelope No. 33791745
By: Miaeda Hutchinson
Filed: 5/22/2019 4:24 PM

2019-35476 / Court: 011

CAUSE NO. _____

WILLFREDO PUENTE,

Plaintiff,

vs.

GEOVERA SPECIALTY INSURANCE
COMPANY,

Defendant.

§
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§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Willfredo Puente ("Mr. Puente"), Plaintiff herein, files this Original Petition against Defendant GeoVera Specialty Insurance Company ("GeoVera") and, in support of his causes of action, would respectfully show the Court the following:

I.
THE PARTIES

1. Willfredo Puente is a Texas resident who resides in Harris County, Texas.
2. GeoVera is an insurance company doing business in the State of Texas which may be served through the Texas Department of Insurance, via certified mail, at P. O. Box 149104, Austin, Texas 78714. The Texas Department of Insurance shall then forward the citation to GeoVera Specialty Insurance Company, via certified mail, at 1455 Oliver Rd., Fairfield, California 94534.

II.
DISCOVERY

3. This case is intended to be governed by Discovery Level 2.

III.
CLAIM FOR RELIEF

4. The damages sought are within the jurisdictional limits of this court. Plaintiff currently seeks monetary relief over \$100,000, but not more than \$200,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees.

IV.
JURISDICTION AND VENUE

5. This court has subject matter jurisdiction of this cause of action because it involves an amount in controversy in excess of the minimum jurisdictional limits of this Court.

6. Venue is proper in Harris County because all or a substantial part of the events or omissions giving rise to the claim occurred in Harris County. TEX. CIV. PRAC & REM CODE § 15.002(a)(1). In particular, the loss at issue occurred in Harris County.

V.
FACTUAL BACKGROUND

7. Mr. Puente is a named insured under a property insurance policy issued by GeoVera.

8. On or about October 13, 2018 a storm hit the Houston, Texas area, damaging Mr. Puente's house and other property. Mr. Puente subsequently filed a claim on his insurance policy.

9. Defendant improperly denied and/or underpaid the claim.

10. The adjuster assigned to the claim conducted a substandard investigation and inspection of the property, prepared a report that failed to include all of the damages that were observed during the inspection, and undervalued the damages observed during the inspection.

11. This unreasonable investigation led to the underpayment of Plaintiff's claim.

12. Moreover, GeoVera performed an outcome-oriented investigation of Plaintiff's claim, which resulted in a biased, unfair and inequitable evaluation of Plaintiff's losses on the property.

VI.
CAUSES OF ACTION

13. Each of the foregoing paragraphs is incorporated by reference in the following:

A. Breach of Contract

14. GeoVera had a contract of insurance with Plaintiff. GeoVera breached the terms of that contract by wrongfully denying and/or underpaying the claim and Plaintiff was damaged thereby.

B. Prompt Payment of Claims Statute

15. The failure of GeoVera to pay for the losses and/or to follow the statutory time guidelines for accepting or denying coverage constitutes a violation of Section 542.051 *et seq.* of the Texas Insurance Code.

16. Plaintiff, therefore, in addition to Plaintiff's claim for damages, is entitled to interest and attorneys' fees as set forth in Section 542.060 of the Texas Insurance Code.

C. Bad Faith

17. Defendant is required to comply with Chapter 541 of the Texas Insurance Code.

18. Defendant violated Section 541.051 of the Texas Insurance Code by:

(1) making statements misrepresenting the terms and/or benefits of the policy.

19. Defendant violated Section 541.060 by:

(1) misrepresenting to Plaintiff a material fact or policy provision relating to coverage at issue;

- (2) failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability had become reasonably clear;
- (3) failing to promptly provide to Plaintiff a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or offer of a compromise settlement of a claim;
- (4) failing within a reasonable time to affirm or deny coverage of a claim to Plaintiff or submit a reservation of rights to Plaintiff; and
- (5) refusing to pay the claim without conducting a reasonable investigation with respect to the claim;

20. Defendant violated Section 541.061 by:

- (1) making an untrue statement of material fact;
- (2) failing to state a material fact necessary to make other statements made not misleading considering the circumstances under which the statements were made;
- (3) making a statement in a manner that would mislead a reasonably prudent person to a false conclusion of a material fact;
- (4) making a material misstatement of law; and
- (5) failing to disclose a matter required by law to be disclosed.

21. Defendant's violations of Chapter 541 of the Texas Insurance Code enumerated above caused damages to Plaintiff in at least the amount of policy benefits wrongfully withheld.

22. Defendant knowingly committed the acts complained of. As such, Plaintiff is entitled to exemplary and/or treble damages pursuant to Texas Insurance Code Section 541.152(a)-(b).

D. Attorneys' Fees

23. Plaintiff engaged the undersigned attorney to prosecute this lawsuit against Defendant and agreed to pay reasonable attorneys' fees and expenses through trial and any appeal.

24. Plaintiff is entitled to reasonable and necessary attorney's fees pursuant to Texas Civil Practice and Remedies Code Sections 38.001-38.003 because he is represented by an attorney, presented the claim to Defendant, and Defendant did not tender the just amount owed before the expiration of the 30th day after the claim was presented.

25. Plaintiff further prays that he be awarded all reasonable attorneys' fees incurred in prosecuting his causes of action through trial and any appeal pursuant to Sections 541.152 and 542.060 of the Texas Insurance Code.

**VII.
CONDITIONS PRECEDENT**

26. All conditions precedent to Plaintiff's right to recover have been fully performed, or have been waived by Defendant.

**VIII.
DISCOVERY REQUESTS**

27. Pursuant to Rule 194, you are requested to disclose, within fifty (50) days after service of this request, the information or material described in Rule 194.2(a)-(l).

28. You are also requested to respond to the attached interrogatories, requests for production, and requests for admissions within fifty (50) days, in accordance with the instructions stated therein.

IX.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Willfredo Puente prays that, upon final hearing of the case, he recover all damages from and against Defendant that may reasonably be established by a preponderance of the evidence, and that Mr. Puente be awarded attorneys' fees through trial and appeal, costs of court, pre-judgment interest, post-judgment interest, and such other and further relief, general or special, at law or in equity, to which Mr. Puente may show himself to be justly entitled.

Respectfully submitted,

DALY & BLACK, P.C.

By: /s/ Maria Gerguis

Maria Gerguis
TBA No. 24090355
mgerguis@dalyblack.com
Richard D. Daly
TBA No. 00796429
rdaly@dalyblack.com
ecfs@dalyblack.com
2211 Norfolk St., Suite 800
Houston, Texas 77098
713.655.1405—Telephone
713.655.1587—Fax

ATTORNEYS FOR PLAINTIFF
WILLFREDO PUENTE

CAUSE NO. 2019-35476

WILLFREDO PUENTE	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
vs.	§	
	§	HARRIS COUNTY, TEXAS
	§	
GEOVERA SPECIALTY INSURANCE	§	
COMPANY,	§	
Defendant.	§	11TH JUDICIAL DISTRICT

**DEFENDANT GEOVERA SPECIALTY INSURANCE COMPANY'S
ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Defendant GEOVERA SPECIALTY INSURANCE COMPANY (hereinafter “Defendant”) and file this, its original answer, and would respectfully show as follows:

I.

ORIGINAL ANSWER

1. Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies the allegations contained within Plaintiff’s Original Petition and demands strict proof thereon by a preponderance of the evidence in accordance with the laws of the State of Texas.

II.

DEMAND FOR JURY TRIAL

2. Defendant demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant GEOVERA SPECIALTY INSURANCE COMPANY respectfully prays that Plaintiff take nothing on her claims against Defendant, that Defendant recover its costs herein, and that it receive such other and further relief, general or special, at law or in equity, to which it may show itself to be justly entitled.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Rhonda J. Thompson

Rhonda J. Thompson
State Bar No. 24029862
700 N. Pearl Street, 25th Floor
Dallas, Texas 75201
Telephone: (214) 871-8200
Facsimile: (214) 871-8209
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Of counsel:
Susan Sparks Usery
State Bar No.: 18880100
Thompson, Coe, Cousins & Irons, LLP
One Riverway, Suite 1400
Houston, Texas 77056
Telephone: (713) 403-8210
Facsimile: (713) 403-8299
Email: susery@thompsoncoe.com

**ATTORNEYS FOR DEFENDANT
GEOVERA SPECIALTY INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

This is to certify that on the 17th day of June, 2019, a true and correct copy of the foregoing document was delivered to all counsel of record in accordance with the Texas Rules of Civil Procedure as follows:

Maria Gerguis
Richard D. Daly
Daly & Black, PC
2211 Norfolk Street, Suite 800
Houston, Texas 77098
mgerguis@dalyblack.com
rdaly@dalyblack.com
ecfs@dalyblack.com
Attorneys for Plaintiff

/s/ Rhonda J. Thompson
Rhonda J. Thompson